

# European Union

Citation for published version (APA):

Klip, A. (1995). European Union: Joint action on the Europol Drugs Unit. *International Enforcement Law Reporter*, 11(5), 178-179. [I.I.D]. <https://heinonline.org/HOL/P?h=hein.journals/ielr11&i=180>

**Document status and date:**

Published: 01/05/1995

**Document Version:**

Publisher's PDF, also known as Version of record

**Please check the document version of this publication:**

- A submitted manuscript is the version of the article upon submission and before peer-review. There can be important differences between the submitted version and the official published version of record. People interested in the research are advised to contact the author for the final version of the publication, or visit the DOI to the publisher's website.
- The final author version and the galley proof are versions of the publication after peer review.
- The final published version features the final layout of the paper including the volume, issue and page numbers.

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countries to cooperate closely with one another. Its view is to strengthen the effectiveness of law enforcement in order to suppress illegal narcotics crimes contained in the Convention, including establishing and maintaining channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information and cooperation with one another in conducting enquiries. The provisions of the article specify the development of specific training and research and training programs.

The Vienna Drug Convention also endorses and seeks to promote the use of the technique of controlled delivery.<sup>21</sup> The provisions of Article 11 of the U.N. Vienna Drug Convention call, if permitted by the basic principles of their respective domestic legal systems, for controlled delivery at the international level, on the basis of agreements or arrangements that are mutually consented.

## **D. European Union: Joint Action on the Europol Drugs Unit**

by André Klip<sup>\*</sup>

On March 10, 1995, the Council of Ministers adopted a Joint Action with regard to the Europol Drugs Unit.<sup>11</sup> A Joint Action is binding upon the fifteen Member States of the European Union and finds its legal basis in article K.3 paragraph 2 of the Treaty on European Union. The Joint Action replaces the Ministerial Agreement of June 2, 1993 establishing the Europol Drugs Unit in The Hague, Netherlands. The Europol Drugs Unit was established as a non-operational force with the task to exchange and analyze data and information on:

- illegal trafficking in drugs;
- illegal trafficking in radioactive and nuclear material;
- illegal immigration networks; and
- illegal trafficking in motor vehicles (Article 2).

The liaison-officers working at the Europol Drugs Unit are bound by the national legislation of their respective countries with regard to the use of information and to privacy requirements (Article 4). The Joint Action establishes control on the activities of the Europol Drugs Unit by the Council of Ministers of the European Union. The Member States are responsible for their individual liaison-officers (Article 6).

The adoption of the Joint Action under the Treaty on European Union raises the question whether some European Union Member States will still feel the need for a Europol Convention. The current negotiations on that Convention are time consuming<sup>21</sup> and expectations are that it will not be signed during the Cannes European Council (June 1995). This could give the Europol Drugs Unit, which was meant as a temporary unit, an unexpected long life.

The negotiating Member States continue to have differences of opinion about the role of the European Court of Justice and the European Parliament. Some countries favor a provision by which the European Court of Justice is made competent to judge on questions of interpretation of the Europol Convention. Others are strongly opposed to an

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<sup>21</sup> William C. Gilmore, *COMBATING INTERNATIONAL DRUGS TRAFFICKING: THE 1988 UNITED NATIONS CONVENTION AGAINST ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES* 35 (1991).

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<sup>11</sup> See Official Journal of the European Communities L 62 of March 20, 1995.

<sup>21</sup> See *European Union: Draft Convention on the Establishment of a European Police Force (Europol)*, 11 INT'L ENFORCEMENT L. REP.64 (Feb. 1995).



expanding role of the Court and the Parliament. The latter states now have a stronger negotiating position since an eventual failure to establish a Europol Convention will not prevent the (temporary) Europol Drugs Unit from continuing its activities on the legal basis of the Joint Action of March 10, 1995. The present Joint Action means a heavy blow to those in favor of parliamentary control on activities within the Justice and Home Affairs Pillar of the European Union. National parliaments will only have the chance to react after the Joint Action already obtained binding force.

### III. INTERNATIONAL TAXATION

#### A. Israeli and Arab Governments Start Cooperation Against Tax and Money Laundering Crimes

As a result of the recent peace accords, Israeli and Arab governments have started to cooperate against tax and money laundering crimes, which the Israeli authorities are investigating.<sup>15</sup>

During the last seven years it is believed that approximately \$1 billion has been smuggled out of Israel to banks in Europe.

Investigators believe that an alleged ring of ultra-Orthodox Jews and Arab moneychangers from annexed east Jerusalem are behind the scheme. They arrested nine such persons in Arab and Jewish areas as a result of a tip.

Tax officials are participating in the investigation. More arrests are expected.

The case is believed to be one of the largest smuggling ring in the region to be uncovered since the foundation of Israel in 1947. Tax evasion is believed the principal motive.

According to police, Arab moneychangers transmitted millions of dollars in cash and gold to their Jewish partners several times a month. The latter then smuggled it to Swiss and other European banks using forged or foreign passports.

The investigation illustrates the proclivity to find money laundering in money transmitters and other unregulated non-bank financial institutions and/or other professionals. The investigation also indicates the tendency in many countries to combine tax and money laundering investigations. This trend is not followed in jurisdictions with large offshore financial sectors. Since Lebanon traditionally had significant international financial services, which have migrated to jurisdictions such as Cyprus, Malta, and Greece, it will be interesting to observe the course of future events in Lebanon and potential enforcement cooperation between Israel and Lebanon in tax and money laundering enforcement.

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<sup>15</sup> For background see *Unlikely Alliance Thought to Have Smuggled Over \$1 Billion Out of Israel*, 12 COMM. CRIME INT'L 6 (Apr. 1995).